



DEPARTMENT OF LABOR

Employment and Training Administration

TA-W-85,057

HYOSUNG USA, INC  
UTICA PLANT  
A SUBSIDIARY OF HYOSUNG HOLDINGS USA, INC.  
UTICA, NEW YORK

Notice of Negative Determination  
Regarding Application for Reconsideration

By application dated March 26, 2014, a State of New York workforce official requested administrative reconsideration of the Department of Labor's negative determination regarding eligibility to apply for Trade Adjustment Assistance (TAA), applicable to workers and former workers of Hyosung USA, Inc., Utica Plant, a subsidiary of Hyosung Holdings USA, Inc., Utica, New York (subject firm). The negative determination was signed on February 26, 2014.

The petition stated: "Richard Guzda . . . will be laid off on 3/31/2014. He has been the maintenance man and watchman for the vacant building. Hyosung has an Agreement . . . to keep someone on site until the end of the lease on 3/31/14."

The determination was based on the Department's finding that there was not a worker group as defined by 29 CFR 90 at the subject firm during the one-year period prior to the date of the petition (February 6, 2014).

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

- (1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;
- (2) If it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or
- (3) If in the opinion of the Certifying Officer, a mis-interpretation of facts or of the law justified reconsideration of the decision.

In the request for reconsideration, the state workforce official stated that "Mr. Guzda has been fully connected with 81 other workers certified under petition 80085. I believe that TAA petition 80085 should be re-opened and the expiration date should be changed from May 5<sup>th</sup>, 2013 to at least April 1<sup>st</sup>, 2014 to ensure that Mr. Guzda is eligible for TAA benefits."

19 U.S.C. 2291 establishes that the certification period ends at "the 2-year period beginning on the date on which the determination under section 223 was made."

29 CFR 90.11(b) states "Every petition filed with the Department shall clearly state the group of workers on whose behalf the petition is filed."

29 CFR 90.2 states "Group means three or more workers in a firm or appropriate subdivision thereof."

29 CFR 90.16(e) states "A certification of eligibility to apply for adjustment assistance shall not apply to any worker: (1) whose last total or partial separation from the firm or appropriate subdivision occurred more than one (1) year before the date of the petition."

Because there was one worker at the subject firm on/after February 6, 2013, the worker group criteria have not been met.

Because the petitioner did not supply facts not previously considered and did not provide additional documentation indicating that there was either a mistake in the determination of facts not previously considered or a misinterpretation of facts, or of the law justifying reconsideration of the initial determination, the Department determines that 29 CFR 90.18(c) has not been met.

#### Conclusion

After careful review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed in Washington, D.C., this 24th day of April, 2014

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DEL MIN AMY CHEN  
Certifying Officer, Office of  
Trade Adjustment Assistance  
4510-FN-P

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